Dear Stakeholders:

If you have comments on this regulatory proposal, please submit them in writing by Friday, March 29, 2013 by e-mail to <u>laurie.schoder@state.co.us</u> or by fax to 303-753-6214. If you have questions, please call Laurie Schoder at 303-692-2832. Changes are highlighted in yellow.

1	DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
2	Health Facilities Regulation Division
3	STANDARDS FOR HOSPITALS AND HEALTH FACILITIES
4	CHAPTER II - GENERAL LICENSURE STANDARDS
5	6 CCR 1011-1 Chap 02
6	
7	PART 1 – RESERVED GENERAL BUILDING AND FIRE SAFETY PROVISIONS
8 9	1.100 SUBMISSION OF CONSTRUCTION PLANS/DOCUMENTS AND COMPLETION OF THE PLAN REVIEW PROCESS
10	1.200 USE OF ANTIFREEZE IN SPRINKLER SYSTEMS
11 12	1.100 SUBMISSION OF CONSTRUCTION PLANS/DOCUMENTS AND COMPLETION OF THE PLAN REVIEW PROCESS
13	1.101 STATUTORY AUTHORITY AND APPLICABILITY
14 15	(1) Authority to establish minimum standards through regulation and to administer and enforce such regulations is provided by Sections 25-1.5-103 and 25-3-101, C.R.S., et seq.
16 17 18 19 20	(2) This Subpart 1.100 applies to all licensed facilities subject to plan review in accordance with requirements established in the respective chapter under 6 CCR 1011-1, associated with each type of health care entity. It is the responsibility of the health facility to ensure that any construction project complies with the applicable local, state, and federal standards and codes.
21	1.102 DEFINITIONS. Reserved.
22 23 24 25	4.103 SUBMISSION OF CONSTRUCTION PLANS/DOCUMENTS. Materials submitted for review shall be in the format and/or on forms prescribed by the department. The following construction plans/documents for all facilities subject to plan review shall be submitted to the department prior to the start of construction:
26 27	(1) A written description of the type and size of patient/resident service or services to be provided in the area subject to the plan review.
28 29 30 31	(2) Scale drawings showing the proposed general location, boundaries, approaches to and physical features of the site, other buildings on the site, means of water supply, sewage disposal, and other utilities to the site, and other services, as applicable, to ensure the review is accurate and complete. The drawings shall also show the proposed layout of

1 2	each floor of the facility with each room labeled as to its use and dimensions, and a general cross section of the structure indicating type of construction.
3	(3) Specifications indicating electrical, mechanical and other features not shown on drawings.
4	1.104 COMPLETION OF THE PLAN REVIEW PROCESS
5 6	(1) For the purposes of this Section 1.104, the plan review process consists of the following steps:
7	(a) submittal of construction plans/documents by the facility.
8 9	(b) preliminary review by the department of the health care entity submittals and written notification of preliminary review findings. ¹
10 11 12 13 14	1 Preliminary review findings will vary based on the type of construction or remodel being reviewed and may include that insufficient information was submitted to make conclusive findings. When sufficient information is submitted, findings for new construction, for example, will establish whether the construction type, occupancy separations, smoke barriers meet Life Safety Code requirements. For a kitchen hood and duct work remodel, on the other hand, findings will establish whether the system is properly designed, routed, and accessible.
15	(c) completion of the project by the health care entity.
16	(d) final review/inspection by the Department of the completed project.
17 18	(e) department approval of the project indicating that the facility is in compliance and no additional changes need to be made.
19	(2) The steps outlined in Section 1.104 (1)(c) through 1.104 (1)(e) shall be completed:
20 21 22	(a) for those facilities that submit constructions plans on or after May 1, 2010, within 24 months after the issuance of the preliminary review findings by the department, unless extensions are obtained pursuant to Section 1.104 (3).
23 24 25 26	(b) for those facilities that submit construction plans prior to May 1, 2010, within 24 months after the issuance of the preliminary review findings by the department or by May 1, 2012, whichever is later, unless extensions are obtained pursuant to Section 1.104 (3).
27	(3) Extensions
28 29	(a) Notwithstanding Section 1.104 (2), the facility may obtain a one-month extension for the completion of the plan review process beyond the 24-month period.
30 31 32	(i) The facility may obtain a one-month extension by submitting a written request in the form required by the Department, no later than 10 working days prior to the 24-month completion due date.
33	(ii) The facility is only eligible for a single one-month extension.
34 35 36 37	(b) If the plan review process is not completed within the 24-month period established in Section 1.104 (2), or 25-month period if the one-month extension was obtained, the applicant may obtain a 6-month extension, as long as the applicant has commenced project construction and construction is ongoing.

1 2	(i) The facility may obtain a six-month extension by submitting an extension fee of \$500 and a written request, in the form required by the Department, no
3	later than 10 working days prior to the completion due date.
4	(ii) The facility is eligible for multiple six-month extensions.
5	(iii) Extension fees are non-refundable.
6	(4) Failure to complete the plan review process within the 24-month period established in Section
7	1.104 (2) or within the timeframes authorized by the extensions shall result in the plan
8 9	review process being administratively closed. After an administrative closure, the
10	applicant may activate a new plan review by resubmitting the construction plans/documents along with the corresponding plan review fee.
11	1.200 USE OF ANTIFREEZE IN SPRINKLER SYSTEMS
12	1.201 STATUTORY AUTHORITY AND APPLICABILITY
13 14	(1) Authority to establish minimum standards through regulation and to administer and enforce such regulations is provided by Sections 25-1.5-103 and 25-3-101, C.R.S., et seq.
15 16	(2) This Subpart 1.200 applies to all licensed facilities that provide services upon their licensed premises, except for certain community clinics.
17	1.202 DEFINITIONS
18	(1) "Acute care facility" means an ambulatory surgical center, birth center, community clinic and
19	emergency center, community clinic with an anesthetizing location, community clinic with
20	sleeping rooms for stays over 24 hours, chiropractic center/hospital, convalescent center,
21	dialysis treatment clinic, hospital (including a general hospital, psychiatric hospital,
22	maternity hospital, and rehabilitation center), and hospital unit.
23	(2) "Dwelling unit" means one or more rooms arranged for the use of one or more individuals
24	living together as in a single housekeeping unit normally having cooking, living, sanitary
25 26	and sleeping facilities. For the purposes of this Subpart 1.200, dwelling unit includes apartments, sleeping rooms in nursing homes and similar living units.
27	(3) "Residential facility" means an assisted living residence, acute treatment unit, community
28	residential home for persons with developmental disabilities, intermediate care facility for
29	persons with developmental disabilities, nursing home or residential hospice.
30	(4) "System riser" means the aboveground horizontal or vertical pipe between the water supply
31	and the mains (cross or feed) that contains a control valve (either directly or within its
32	supply pipe) and a waterflow alarm device.
33	1.203 PROTECTION AGAINST COMBUSTIBLE ANTIFREEZE - RESIDENTIAL FACILITIES
34	(1) On or after September 15, 2010, residential facilities shall not permit antifreeze within the
35	dwelling unit portions of sprinkler systems:
36	(a) in facilities that apply for initial licensure; except that such facilities with a sprinkler
37 38	system with an onsite water supply shall not be permitted to use antifreeze in any
Ö	portion of that sprinkler system.

1	(b) In the construction, again on previously uninspected or unincensed square
2 3	footage under the license to an existing occupancy, and relocations in whole or in
3	part of another physical plant. This requirement applies to construction for which
4	the application for a building permit from the local authority having jurisdiction is
5	dated between September 15, 2010 and December 31, 2010.
6	(2) On or after January 1, 2011, existing residential facilities shall not permit antifreeze within the
6 7	
	dwelling unit portions of sprinkler systems in additions of previously uninspected or
8	unlicensed square footage under the license and relocations in whole or in part to
9	another physical plant. This requirement applies to construction for which the complete
0	submission of construction plans and documents for plan review in accordance with 6
1	CCR 1011-1, Part 1, Section 1.103 was received by the Department on or after January
2	1, 2011.
3	1.204 PROTECTION AGAINST COMBUSTIBLE ANTIFREEZE - ACUTE CARE FACILITIES
4	(1) On or after January 1, 2011, acute care facilities shall not permit antifreeze within the patient
5	sleeping room, patient use area, and egress corridor portions of sprinkler systems:
6	(a) in facilities that apply for initial licensure;
7	(b) for existing facilities, in additions of previously uninspected or unlicensed square
8	footage under the license and relocations in whole or in part to another physical
9	plant. This requirement applies to construction for which the complete
20	submission of construction plans and documents for plan review in accordance
21	with 6 CCR 1011-1, Part 1, Section 1.103 was received by the Department on or
22	
22	after January 1, 2011.
23	
24	2.3 License Required
25	2.3.1 No person or business entity shall establish, maintain or operate a health care entity without first
26	having obtained a license therefore or, in the case of governmental facilities, a certificate of
27	compliance from the Department. For purposes of these rules, the holder of a certificate of
28	compliance shall be considered a licensee.
20	compliance shall be considered a licensee.
29	(A) Any person or business entity operating a health care entity shall not provide services in
30	areas subject to plan review except as approved by the Department A LICENSED
31	HEALTH CARE ENTITY THAT IS SUBJECT TO FIRE PREVENTION AND LIFE
22	SAFETY CODE REQUIREMENTS SHALL NOT PROVIDE SERVICES IN AREAS
) <u>/</u> 2 2	SUBJECT TO PLAN REVIEW EXCEPT AS APPROVED BY THE DEPARTMENT OF
32 33 34	
)4	PUBLIC SAFETY, DIVISION OF FIRE PREVENTION AND CONTROL.
35	(B) Any person or business entity operating a health care entity who does not have a provisional,
36	conditional or regular license from the Department is guilty of a misdemeanor and, upon
37	conviction thereof, shall be punished by a fine of not less than fifty dollars (\$50), nor more
38	than five hundred dollars (\$500). Each day of operation shall be considered a separate
39	offense.
10	(O) No books are a sign of all and the last of the las
10	(C) No health care entity shall create the impression that it is a licensed entity at any location
11	unless it meets the legal definition of the health care entity that it purports to be.

2 3	except as otherwise specified in Chapter IV, General Hospitals and Chapter XXVI, Home Care Agencies.
4 5 6	2.3.3 Each health care entity offering services that are regulated by more than one chapter of 6 CCR 1011-1, Standards for Hospitals and Health Facilities, shall obtain a separate license for each category of services that requires a state license.
7 8 9	(A) If any licensed health care entity offers services within the same building or on the same campus as another licensee, the care facilities of one licensee shall be separately identifiable from the care facilities of any other licensee.
10 11	(1) Care facilities shall include, but not be limited to, patient/resident bed wings, diagnostic, procedure and operating rooms.
12 13	2.3.4 Each health care entity that is federally certified shall have a state license for each category of services for which it is certified, if such a license category exists.
14	2.3.5 Two-Hour Fire Separation Required Between Occupancies
15 16 17 18	(A) An intact, two-hour fire rated separation wall, floor or ceiling assembly between the facility and all adjoining occupancy areas shall be required under the following circumstances unless the health care entity meets the criteria for one of the alternatives or exclusions outlined in paragraphs (B) and (C) below:
19 20 21 22	(1) For each applicant seeking an initial license on or after July 1, 2010, except for a health care entity that has submitted building plans to the Department and obtained a building permit prior to July 1, 2010 from the local authority having jurisdiction.
23 24	(2) For each licensee who obtains a building permit on or after July 1, 2010 for relocations in whole or in part to another physical structure.
25 26 27 28 29	(3) For each licensee who obtains a building permit on or after July 1, 2010 to add previously un-inspected or unlicensed square footage to an existing license. For the purposes of compliance with this section, the two-hour fire rated separation shall be around either the entire perimeter of the added square footage or the entire perimeter of the facility.
30	(B) Alternatives
31 32 33	Where there are adjoining occupancies by licensed health care entities and all are directly owned by one of the licensees or share the same governing body, the following alternatives to section 2.3.5(A) shall be acceptable.
34 35 36	(1) Install a one-hour rated separation wall, floor or ceiling assembly between each occupancy if all occupancies are board and care, ambulatory care, or business occupancy. This alternative shall not apply to health care occupancies.
37 38 39 40 41	(2) Have no separation wall, floor, or ceiling assembly between the adjoining occupancies on the condition that all adjoining occupancies shall meet the standards applicable to the most stringent occupancy requirements and the citing of a life safety code deficiency in one occupancy shall result in the citing of such deficiency for all adjoining licensed occupancies.

1	(C) Exclusions
2	(1) A health care entity that does not provide services on its licensed physical premises.
3 4 5 6 7 8	2.3.65 Each health care entity applying for initial licensure shall submit a distinctive license name that does not mislead or confuse the public regarding the type of health services to be provided. The entity name need not include the services to be provided. If, however, those services are included in the name, that inclusion shall not mislead or confuse the public. Duplication of an existing name is prohibited except between health care entities that are affiliated through ownership or controlling interest.
9 10 11	(A) Each health care entity shall be identified by this distinctive name on stationery, billing materials and exterior signage that clearly identifies the licensed entity. Exterior signage shall conform to the applicable local zoning requirements.
12	2.4 Initial License Application Procedure
13 14 15 16 17	2.4.1 Any person or entity seeking a license to operate a health care entity shall initially notify the Department by submitting a letter of intent upon such form and in such manner as prescribed by the Department. Such notification shall include the proposed name, location, license category, services and date of opening of said entity. Upon receipt of the letter of intent, the Department will provide the applicant with the appropriate application.
18 19 20 21 22 23	2.4.2 The applicant shall provide the Department with a complete application including all information and attachments specified in the application form and any additional information requested by the Department. The appropriate non-refundable fee(s) for the license category requested shall be submitted with the applicationunless previously tendered in connection with a plan review. Applications shall be submitted at least ninety (90) calendar days before the anticipated start-up date.
24	
25	PART 3. QUALITY MANAGEMENT
26	
27 28 29	3.2 OCCURRENCE REPORTING. Notwithstanding any other reporting required by state law or regulation, each health care entity licensed pursuant to 25-1.5-103 shall report to the Department the occurrences specified at 25-1-124 (2) C.R.S.
30 31 32	3.2.1 The following occurrences shall be reported to the department in the format required by the Department by the next business day after the occurrence or the health care entity becomes aware of the occurrence:
33 34 35 36	(1) Any occurrence that results in the death of a patient or resident of the health care entity and is required to be reported to the coroner pursuant to section 30-10- 606, C.R.S., as arising from an unexplained cause or under suspicious circumstances;
37 38	(2) Any occurrence that results in any of the following serious injuries to a patient or resident:
39	(a) Brain or spinal cord injuries;

2	(b) Life-threatening complications of anesthesia or life-threatening transfusion errors or reactions;
3 4 5	(c) Second or third degree burns involving twenty percent or more the body surface area of an adult patient or resident or fifteen percent or more of the body surface area of a child patient or resident;
6 7 8 9 10	(3) Any time that a resident or patient of the health care entity cannot be located following a search of the health care entity, the health care entity grounds, and the area surrounding the health care entity and there are circumstances that place the resident's health, safety, or welfare at risk or, regardless of whether such circumstances exist, the patient or resident has been missing for eight hours;
12 13 14 15	(4) Any occurrence involving physical, sexual, or verbal abuse of a patient or resident, as described in sections 18-3-202, 18-3-203, 18-3-204, 18-3-206, 18-3-402, 18-3-403, 18-3-404, or 18-3-405, C.R.S., by another patient or resident, an employee of the health care entity or a visitor to the health care entity;
16 17	(5) Any occurrence involving neglect of a patient or resident, as described in section 26-3.1-101 (4)(b) (7)(b) C.R.S. [change in reference as a result of SB12-226]
18	
19	Part 4. WAIVER OF REGULATIONS FOR HEALTH CARE ENTITIES
20	4.101 Statutory Authority, Applicability and Scope
21 22 23	(1) This Part 4 is promulgated by the State Board of Health pursuant to Section 25-1-108(I)(c), C.R.S., in accordance with the general licensing authority of the Department as set forth in Section 25-1.5-103, C.R.S.
24 25 26	(2) This Part 4 applies to health facilities licensed by the Department and establishes procedures with respect to waiver of regulations relating to state licensing and federal certification of health facilities.
27 28	(3) Nothing contained in these provisions abrogates the Aapplicant's obligation to meet minimum requirements under local safety, fire, electrical, building, zoning, and similar codes.
29 30	(4) Nothing herein shall be deemed to authorize a waiver of any statutory requirement under state or federal law, except to the extent permitted therein.
31 32 33 34 35	(5) It is the policy of the State Board of Health and the Department that every licensed health care entity complies in all respects with applicable regulations. Upon application to the Department, a waiver may be granted in accordance with this Part 4, generally for a limited term. Absent the existence of a current waiver issued pursuant to this part, health care entities are expected to comply at all times with all applicable regulations.
36	4.102 Definitions For This Part 4
37 38	(1) "Applicant" means a current health care entity licensee, or an applicant for federal certification or for an initial license to operate a health care entity in the state of Colorado.
39	(2) "Board" means the State Board of Health.

1	(3) "Department" means the Colorado Department of Public Health and Environment.
2 3 4	(4) "Health Care Entity" means a health facility or agency licensed pursuant to Sections 25-1.5- 103 and 25-3-102, C.R.S., and/or certified pursuant to federal regulations to participate ir a federally funded health care program.
5	(5) "Regulation(s)" means:
6 7	(a) Any state regulation promulgated by the Board relating to standards for operation or licensure of a health care entity, or
8 9 10	(b) Any federal regulation pertaining to certification of a care entity, but only when final authority for waiver of such federal regulation is vested in the Department. "Regulation(s)" includes the terms "standard(s)" and "rule(s)."
11	4.103 Application Procedure
12 13	(1) General \(\frac{\psi w}{\psi}\)aiver applications shall be submitted to the Department on the form and in the manner required by the Department.
14	(a) Only one <mark>≰r</mark> egulation per waiver application will be considered.
15 16 17	(b) The Aapplicant shall provide the Department such information and documentation as the Department may require to validate the conditions under which the waiver is being sought.
18 19	(c) The application must include the Aapplicant's name and specify the Aregulation that is the subject of the application, identified by its citation.
20 21 22 23	(d) The application must be signed by an authorized representative of the Aapplicant, who shall be the primary contact person for the Department and the individual responsible for ensuring that accurate and complete information is provided to the Department.
24	(2) At a minimum, each waiver application shall include the following:
25	(a) A copy of the notice required to be posted pursuant to Section 4.103(4);
26 27 28 29	(b) If the waiver application pertains to PHYSICAL PLANT ISSUES THAT AFFECT THE HEALTH AND/OR ENVIRONMENT OF THE RESIDENTS OR PATIENTS, building requirements, schematic drawings of the areas affected and a description of the effect of the requested waiver on the total health care entity;
30 31	(c) A description of the programs or services offered by the health care entity that are anticipated to be affected by the waiver;
32 33	(d) A description of the number of residents or patients in the health care entity and the level of care they require;
34 35	 (e) A description of the nature and extent of the Aapplicant's efforts to comply with the Regulation;
36 37	 (f) An explanation of the Aapplicant's proposed alternative(s) to meet the intent of the Aregulation that is the subject of the waiver application;

$\frac{1}{2}$	(g) An explanation of why granting the waiver would not adversely affect the health, safety or welfare of the health care entity's residents or patients;
3 4 5	(h) If the waiver is being sought for state Rregulation, a description of how any applicable federal Rregulation similar to the state Rregulation for which the waiver is sought (if any) is being met.
6	(3) A waiver application shall address the following matters, to the extent applicable or relevant:
7 8	(a) Staffing considerations, such as staff/resident or patient ratios, staffing patterns, scope of staff training, and cost of extra or alternate staffing;
9	(b) The location and number of ambulatory and non-ambulatory residents or patients;
10	(c) The decision-making capacity of the residents or patients;
11	(d) Recommendations of attending physicians and other care-givers;
12 13	 (e) The extent and duration of the disruption of normal use of resident or patient areas to bring the health care entity into compliance with the
14	(f) Life safety code factors, including but not limited to:
15 16	(i) The availability and adequacy of areas safe from fire and smoke to hold residents or patients during a fire emergency;
17	(ii) Smoking regulations;
18	(iii) Fire emergency plan;
19 20	(iv) The availability, extent and types of automatic fire detection and fire extinguishment systems provided in the health care entity;
21	(v) The ability to promptly notify, and availability of, the fire department;
22	(gf) Financial factors, including but not limited to:
23 24 25	 (i) The estimated cost of complying with the Regulation, including capital expenditures and any other associated costs, such as moving residents or patients;
26 27 28	 (ii) How application of the Regulation would create a demonstrated financial hardship on the health care entity that would jeopardize its ability to deliver necessary health care services to residents or patients;
29 30 31 32	(iii) The availability of financing to implement the Gregulation, including financing costs, repayment requirements, if any, and any financing or operating restrictions that may impede delivery of health care to residents or patients; and
33 34	(iv) The potential increase in the cost of care to residents or patients as a result of implementation of the Rregulation.

1 2 3	(hg) Why waiver of the regulation is necessary for specific health care entity programs to meet specific patient or resident needs, and why other patient or resident needs are not thereby jeopardized.
4	(4) Notice and Opportunity to Comment on Application
5 6 7 8 9 10 11 12 13	(a) No later than the date of submitting the waiver application to the Department, the applicant shall post written notice of the application for thirty (30) days at all public entrances to the health care entity, as well as in at least one area commonly used by patients or residents, such as a waiting room, lounge, or dining room. Applicants that do not provide services on their own licensed premises, such as home care agencies and hospices, shall instead provide such written notice directly to patients. The notice shall be dated and include that an application for a waiver has been made, a meaningful description of the substance of the waiver, and that a copy of the waiver shall be provided by the health care entity upon request.
15 16 17	(b) The notice must also indicate that any person interested in commenting on the waive application may forward written comments directly to the Department at the following address:
18	CDPHE - HFD, A2 - Waiver Program
19	4300 Cherry Creek Drive South
20	Denver, CO 80246.
21 22 23 24 25 26	(c) The notice must specify that written comments from interested persons must be submitted to the Department within thirty (30) calendar days of the date the notice is posted by the Aapplicant, and that persons wishing to be notified of the Department's action on the waiver application may submit to the Department at the above address a written request for notification and a self-addressed stamped envelope.
27	4.104 Department Action Regarding Waiver Application
28 29 30	(1) General. Upon an Aapplicant's submission of a completed waiver application to the Department, a waiver of a particular Regulation with respect to a health care entity may be granted in accordance with this Part 4.
31	(2) Decision on Waiver Application
32	(a) In acting on a waiver application, the Department shall consider:
33	(i) The information submitted by the Aapplicant;
34 35	(ii) The information timely submitted by interested persons, pursuant to Section 4.103 (4); and
36 37	(iii) Whether granting the waiver would adversely affect the health safety or welfare of the health care entity's residents or patients.
38 39	(b) In making its determination, the Department may also consider any other information it deems relevant, including but not limited to occurrence and complaint

2		related to the health care entity and/or the operator or owner thereof.
3 4 5 6		(c) The Department shall act on a waiver application within ninety (90) calendar days of receipt of the completed application. An application shall not be deemed complete until such time as the Aapplicant has provided all information and documentation requested by the Department.
7 8 9	(3)	Terms and conditions of the waiver. The Department may specify terms and conditions under which any waiver is granted, which terms and conditions must be met in order for the waiver to remain effective.
10	4.105 Term	nination, Expiration and Revocation of Waiver
11 12	(1)	General The term for which each waiver granted will remain effective shall be specified at the time of issuance.
13 14		(a) The term of any waiver shall not exceed any time limit set forth in applicable state or federal law.
15 16 17		(b) At any time, upon reasonable cause, the Department may review any existing waiver to ensure that the terms and conditions of the waiver are ARE being observed, and/or that the continued existence of the waiver is otherwise appropriate.
18 19 20 21		(c) Within thirty (30) calendar days of the termination, expiration or revocation of a waiver, the Aapplicant shall submit to the Department an attestation, in the form required by the Department, of compliance with the Regulation to which the waiver pertained.
22	(2)	Termination
23 24 25 26 27 28 29		(a) Change of Ownership. A waiver shall automatically terminate upon a change of ownership of the health care entity, as defined in Section 2.7 of Part 2, Chapter II of these regulations. However, to prevent such automatic termination, the prospective new owner may submit a waiver application to the Department prior to the effective date of the change of ownership. Provided the Department receives the new application by this date, the waiver will be deemed to remain effective until such time as the Department acts on the application.
30	(3)	Expiration
31 32		(a) Except as otherwise provided in this Part 4, no waiver shall be granted for a term that exceeds one year from the date of issuance.
33 34 35		(b) A waiver with a term in excess of one year may be granted for Regulations pertaining to state building or fire safety Regulations, or in other specific cases where it is determined a longer term is appropriate.
36 37 38		(eb) If an Aapplicant wishes to maintain a waiver beyond the stated term, it must submit a new waiver application to the Department not less than ninety (90) calendar days prior to the expiration of the current term of the waiver.
39	(4)	Revocation

2	(a) Notwithstanding anything in this Pan 4 to the contrary, the Department may revoke a waiver if it determines that:
3	(i) The waiver's continuation jeopardizes the health, safety, or welfare of residents or patients;
5 6	(ii) The Aapplicant has provided false or misleading information in the waiver application;
7 8	(iii) The Aapplicant has failed to comply with the terms and conditions of the waiver;
9 10	(iv) The conditions under which a waiver was granted no longer exist or have changed materially; or
11 12	(v) A change in a federal or state law or Rregulation prohibits, or is inconsistent with, the continuation of the waiver.
13 14 15	(b) Notice of the revocation of a waiver shall be provided to the Aapplicant in accordance with the Colorado Administrative Procedures Act, Section 24-4-101 et seq., C.R.S.
16	4.106 Waiver of Building and Fire Safety Regulations for Skilled and Intermediate Health Facilities
17 18 19 20 21 22	(1) Notwithstanding anything in this Part 4 to the contrary, an application for waiver of building or fire safety Regulations promulgated by the Board that is submitted with respect to a health care entity that is a skilled or intermediate health care facility shall be reviewed and acted upon in accordance with this Section 4.106. To the extent they do not conflict with the express provisions of this Section 4.106, the remaining provisions of this Part 4 shall also apply to this type of waiver application.
23 24 25 26	(2) A waiver application described in Section 4.106(1) shall be submitted to the Department and notice thereof shall be posted in accordance with Section 4.103. The application must address those matters set forth in Section 4.103(2) and Sections 4.103(3) (f) and (g). Other matters described in Section 4.103(3) may also be addressed, as appropriate.
27 28 29	(3) The Department shall review the application in accordance with Section 4.104(2), and shall make a recommendation to the Board within ninety (90) calendar days of receipt of the complete application as to whether or not the requested waiver should be granted.
30	(a) The Department may recommend granting a waiver only upon finding that:
31 32	(i) Rigid application of the Regulation would result in demonstrated financial hardship to the health care entity, and
33 34	(ii) Granting the requested waiver would not adversely affect the health and safety of the health care entity's residents or patients.
35 36	(b) The Department's recommendation shall include the term of the waiver and any terms and conditions for issuance thereof.
37 38	(4) The Department's recommendation to the Board on any waiver application subject to this Section 4.106 shall be in writing and shall include the following:

2 3	described in Section 4.106(3)(a) and a general statement of the basis for the recommendation; and
4 5 6	(b) A list of the documents and other information reviewed by the Department in preparing its recommendation, which documents shall be made available to the Board for review upon request.
7 8 9 10	(5) The Board shall review and act upon the Department's recommendation at its next regularly scheduled meeting, or as soon as reasonably possible thereafter. The Department shall provide the Applicant notice of the Board's action, and if the waiver is approved, shall issue the waiver in accordance with the direction of the Board.
11 12 13 14 15	(6) The Department shall be responsible for monitoring any waiver approved by the Board pursuant to this Section 4.106 and, at the Board's request, shall provide periodic reports to the Board concerning the status thereof. Such waivers shall be subject to the provisions of Section 4.105 concerning termination, expiration and revocation; provided, however, that the Department's action to revoke a waiver pursuant to Section 4.105(4)(a) shall be subject to the Board's prior approval.
17	4.10 <mark>76</mark> Appeal Rights
18 19 20	(1) An Applicant may appeal the decision of the Department or the Board regarding a waiver application or revocation as provided in the Colorado Administrative Procedures Act, Section 24-4-101 et seq., C.R.S.
21	